MT LEGISLATIVE HISTORY

Chapter 154 1973

Bill H _____ S 113 Original bill & hist. ___C

H. Committee on Lab. & Emp. Rel. S. Committee on Lab. & Emp. Rel

Hearing Date(s)		C	Hearing Date(s)		C
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Date Out		C			C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

SENATE BILLS

No.	Date Rec.	Title	Author	Date Act.	Type Act.
48	1/2	Safety & Health	Siderius		Held 1974
99	1/11	Hoisting Engrs.	Lowe & Boylan		
113	1/13	"Employer"	Lowe & Siderius	2/5	Pass
114	1/13	Hospitals	Siderius	2/5	Not Pass
115	1/13	Ext. of Coverage	Siderius	2/5	Pass
116	1/13	Repealing Secs.	Lowe & Siderius	2/5	Pass
117	1/13	Def. of Insurer	Lowe & Siderius	2/5	Pass
118	1/13	Temp. total Disab.	Lowe & Siderius	2/5	Pass
119	1/13	Perm. Part. Disab.	Lowe & Siderius	2/5	Pass
120	1/13	Perm. total Disab.	Keenan & Siderius	2/5	Pass
121	1/13	Def. of Wages	Keenan & Siderius	2/5	Pass
122	1/13	Inj. prod. partial Disability	McKeon Siderius	2/5	Pass
123	1/13	Inj. prod. perm. Dis	McKeon & Siderius	2/5	Pass
124	1/13	Exempted Employm.	Siderius	2/5	Pass
125	1/13	'Indep. Contractor'	Siderius	2/5	Pass
126	1/13	Med. & Hosp. Services Apprvd.	McKeon	2/5	Pass
127	1/13	Elect. of Employers & Employees	McKeon	2/	Pass
128	1/13	"Av. Weekly Wage"	Bertsche & Siderius	2/5	Pass
129	1/13	Inj. prod. temp. Disability	McKeon & Siderius	2/5	Pass
130	1/13	Inj. causing Death	McKeon & Siderius	2/5	Pass
131	1/13	Nonexem. emplcym.	Keenan & Siderius	2/5	Pass

HOUSE BILLS

No.	Date Rec.	Title	Author	Date Act.	Type Act.
104	1/29	Base period & benefit year. Amendments	Baucus, Lombardi	Do Pass	
115	1/29	Period of Cov. & Election for coverage	Lombardi, McKittrick	Do Pass	
155	2/3	Ment. & Nerv. system Injury without trauma	Norman Bennetts	Not Pass	
69	2/6	Vac. Benefits	Brand Kessner		
253	2/9	Waiver of requirements in filing of claim	McKittrick		
145	2/10	Board of Appeals	Baucus Lombardi		
214	2/13	Incrs. in maximum Weekly benefits	McKittrick Lee		
431	2/12	Incrs. in time to Recover penalties	Greely McKittrick	As Amen	
344	2/15	Pens. adjustment	Towe Fasbender	Ref. St.	to Adm.
357	2/15	Exempt from Disqualification	Lee McKittrick		
372	2/15	Women reach fullest potential	Bennetts Bardonouve		
444	2/15	Montana residents prefd. pub. labor	Swanberg McKittrick		
488	2/17	Job. protect. for Railroad employees	Brand Kimble		
358	2/17	Change disqualifying Retirement income	Lynch McKittrick		
279	2/17	Minim. wage be excl. of gratuities	Hall		
121	2/17	Incrs. in silicosis benefits payments	Lynch Lee		
176	2/21	Allow 180 days for public office	Brand		
445	2/22	Unlawful to disch. without just cause.	Kimble		

MINUTES OF MEETING OF THE

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

STATE SENATE

A meeting of the Labor and Employment Relations Committee was called to order by Chairman Siderius, January 19, 1973 at 12:00 Noon, Room 402 of the State Capitol Building.

ROLL CALL: Bertsche, Keenan and Bennett excused. Lowe and McNamer absent.

CONSIDERATION OF SENATE BILL NO. 48:

Chairman Siderius requested permission of the Committee to send this bill to the Judiciary Committee for review. Senator Jensen motioned to send it to Judiciary, Flynn seconded the motion. MOTION CARRIED.

CONSIDERATION OF SENATE BILL NO. 99:

Senator Lowe has been working with some people on this bill but was not present at the meeting, therefore, further action on this bill was delayed.

CONSIDERATION OF SENATE BILLS NOS. 113 through 138:

This package of bills is scheduled for a public hearing on Monday, January 22, 1973 at 12:00 Noon. If testimony is not concluded on that day, it will be carried over to Wednesday.

Chairman Siderius adjourned the meeting at 12:15 p.m.

SENATOR GEORGE SIDERIUS, CHAIRMAN

MINUTES OF MEETING OF THE
LABOR AND EMPLOYMENT RELATIONS COMMITTEE
STATE SENATE

A meeting of the Labor and Employment Relations Committee was called to order by Chairman Siderius, January 22, 1973, at 12:00 Noon, Room 402 of the State Capitol Building.

ROLL CALL: Senator Flynn was the only absent member.

CONSIDERATION OF SENATE BILLS 113 THROUGH 138:

James Carden of the Workmen's Compensation Division was present to explain the background and history of this packet of bills. No opponents were present. These bills were prepared by a committee recommended by the President, consisting of 4 members of labor and 4 members of management.

SB 113: The main purpose of this bill is to see that every working man is covered by some kind of compensation. Substantially, the language has been changed to mandatory rather than elective. All industries that were not considered to be hazardous were elective before.

SB 114: Primarily amendments to existing law. The Governor's Advisory Council on Workmen's Compensation respectfully requests that SB 114 be withdrawn.

SB 115: Mandatory coverage of all employees. Repeals statutes that relate to elective coverage. Amendments read and explained. Page 1, line 23, strike "either" and add "any" and Page 2, line 4 beginning with the second "Provided" strike the rest of line 4, 5, 6, 7, 8, 9, and 10. Chairman Siderius asked if the repealed sections were thoroughly researched. Mr. Carden stated that they were and also that Roger Hasell, who is now working for the Legislative Council, worked with this Committee in drafting these bills and could be of help to this committee.

SB 116: Repeals several sections because these are no longer considered to be necessary in the Workmen's Compensation Act.

SB 117: Additional language to the end of the bill.

SB 118; 119; and 120: Similar bills. Up until now there has never been a definite definition of "temporary total disability", "permanent partial disability" or "permanent total disability." Felt they must differentiate between the three types of disabilities. Senator Shea asked if a man had been earning $40 per day and was injured but later on could earn perhaps $15 to $20 per day, how would he be compensated. Mr. Carden replied that it would be a percentage of the difference between the two wages. Also the present law allows up to 500 weeks.

SB 121: Added the word "gross" on line 15. A person employed by "public corporations cannot draw on sick leave and Workmen's Compensation simultaneously. He can however, draw on one and then the other. He may draw annual leave simultaneously with Workmen's Compensation

George Siderius

MINUTES OF MEETING OF THE
LABOR AND EMPLOYMENT RELATIONS COMMITTEE
STATE SENATE

A meeting of the Labor and Employment Relations Committee was called to order by Chairman Siderius, January 24, 1973, at 12:00 Noon, Room 402 of the State Capitol Building.

ROLL CALL: Senator Flynn was absent, all other members present.

CONTINUATION OF SENATE BILLS 113 THROUGH 138:

SB 127: Bruce Toole and Neil Keefer worked on this bill. The Governor's Council felt that 100% subrogation is only right. State now allows 50% of compensation and none on medical. Mr. Keefer stated that this bill simply provides for subrogation in the event that a tort action exists. It also provides certain protection for the workman. Now the insurer participates in the cost of litigation. However, the insurer can elect to participate or not. The statute of limitation for instituting action is presently 6 months and this bill would change it to one (1) year. This provides some benefits to industry to recover some compensation.

SB 128: The wording of this bill is almost verbatim to what the Governor's Council suggested. This procedure is used to figure average weekly wage for any given jurisdiction. The average weekly wage, currently, is just under $130.

SB 129 and 130: Held back for further discussion.

SB 131: Refers to the fine and misdemeanor charge. Not less than $100 nor more than $600, or imprisonment not to exceed 6 months in the county jail, or both. The Governor's Council has tried to bring all hazardous fields under Workmen's Compensation. Senator Lowe remarked that under these bills, coverage would be mandatory and the only elective an employer has is which Plan to be covered under. Mr. Keefer mentioned that the ideal situation would be to have an uninsured fund. We do not have this at the present and have not talked much about the mechanics of it.

Senator McNamer and Senator Shea felt that perhaps during the interim the Workmen's Compensation Division might think about this and give it some study. Senator Shea also brought out the point that all employers should be notified of the new law that makes it mandatory for them to be covered by Workmen's Compensation in view of the penalties for not being covered. This could be taken care of by the news media.

SB 132: Was recommended that the age limit for a child to be a full-time student be changed to 26. However, this bill changes it from 21 to 22 years, thus covering a 4 year college course. Social Security benefits also go by 22 years.

SB 133: Must be under the Merit System or we lose federal funds. Senator Keenan has an amendment to which Mr. Carden has no objections.

MINUTES OF MEETING OF THE
LABOR AND EMPLOYMENT RELATIONS COMMITTEE
STATE SENATE

Chairman Siderius called the meeting to order of the Labor and Employment Relations, February 2, 1973, 12:00 in room 402 of the State Capitol Building.

ROLL CALL: All members present.

CONSIDERATION OF SENATE BILLS NO. 113 through 138.

Senator Bennett moved that all of these bills, 113 through 138, be referred to Judiciary for the purpose of "cleaning up the language". Senator Lowe seconded the motion. Motion failed on a tie vote. Chairman Siderius wishes it known that he opposed the motion. (Roll call vote attached).

Senator Lowe made the motion that this packet of labor bills be studied for action to be taken at the 1974 session. Senator Himsl seconded the motion. Motion failed. Roll call vote attached.

SENATE BILL 113: Jensen moved, seconded by Bertsche that SB 113 DO PASS. Motion carried. Senators Lowe, McNamer and Lowe wish the record to show that they reserve the right to oppose all of the bills, 113 through 138, from the floor.

SENATE BILL 114: Senator Keenan moved, seconded by Senator Shea that SB 114 DO NOT PASS. Motion carried.

SENATE BILL 115: Senator Bertsche moved, seconded by Senator Keenan that the amendment on Page 1, line 23 be accepted. Motion carried.

Senator Bertsche moved, seconded by Senator Keenan that the amendment in Section 1, Page 2, beginning with line 4 through 10 be accepted. Motion failed.

Senator Bertsche moved, seconded by Keenan that SB 115 DO PASS AS AMENDED. Motion carried.

SENATE BILL 116: Senator Bertsche moved, seconded by Senator Keenan that SB 116 DO PASS. Motion carried, Senator Lowe opposing.

SENATE BILL 117: Senator Lowe moved, seconded by Senator Shea that SB 117 DO PASS. Motion carried.

SENATE BILL 118: Senator Lowe moved, seconded by Senator Bertsche, that SB 118 DO PASS. Motion carried.

SENATE BILL 119: Senator Shea moved, seconded by Senator Keenan that SB 119 DO PASS. Motion carried.

SENATE BILL 120: Senator Lowe proposed an amendment to Page 1, line 19 by striking the words "in the normal labor market". Seconded by Senator Keenan. Motion carried.

Senator Lowe moved, seconded by Senator Shea that SB 120 DO PASS AS AMENDED. Motion carried.

February 21, 1973

LABOR AND EMPLOYMENT RELATIONS COMMITTEE PROCEEDINGS:

A meeting of the Labor and Employment Relations Committee was held on Wednesday, February 21, 1973 at 10:30 a.m. in Room 420A with Chairman Pat McKittrick presiding. All members were present except Reps. Ellerd and Flynn.

SENATE BILL # 113 -- SPONSOR: Sen. Lowe -- introduced Jim Carden of Workemn's Comp., who explained all of the following bills in place of Sen. Lowe. This bill redefines the word "employer". Sen. Lowe suggested an amendment to the title in order to conform with the Senate's amendment to the body.

SENATE BILL # 115 -- SPONSOR: Sen. Siderius. Jim Carden explained that this bill is a housekeeping bill. It containes an interpretation of 'elective' and 'mandatory'. Questions followed. Jim Murry, AFL-CIO, said that the Governor's Committee (which he sat on) would not support the Senate's amendment on the bill.

SENATE BILL # 116 -- SPONSOR: Sen. Siderius. Jim Carden said it was another housekeeping bill; which repeals certain sections of Montana law that are rather archaic.

SENATE BILL # 117 -- SPONSOR: Sen. Lowe. Jim Carden said that the only reason for it was that they added the words "industrial insurance account" in the definition of "industrial insurer".

SENATE BILL'S # 118, 119, 120 -- SPONSORS: Sens. Keenan and Siderius. Jim Carden explained that the three bills had to do with three different types of disability. 118 -- defines "total temporary disability"; 119 --"permanent partial disability"; 120 -- "total permanent disability". At the present the only definitions are contained only in case law, not the statutes. Questions followed.

SENATE BILL # 121 -- SPONSOR: Sen. Keenan. Jim Carden said that this has to do with the definition of "wages". In the past many employees have been receiving sick leave pay and workmen's comp. at the same time; this taxes the general fund unfairly. Questions followed.

SENATE BILL # 122 -- SPONSOR: Sen. McKeon. Jim Carden said that it has to do with permanent partial disability. It deletes the dependency requirements we have under the present law. Jim Murry supports the package of bills, not including the Senate amendments. The Governer's Committee met for nearly two years drafting this legislation. Robert Helding, representing the St. Regis Paper Company, -- it is appalling to him that a group would take the position that because a group discusses possible legislation and comes up with what it feels that it wants that it should try to replace the legislators in their wisdom. R.L. Rampy, Teamsters J. C. # 23 -- in reference to the amendments, he did not take a

position; he thought that should be left to the consideration of the Committee. Questions followed. It was pointed out that under Plan 3, the cost factor on SB 122 would involve a total increase of 2% in workmen's comp. premiums.

A letter was received by some of the Committee members from the Industrially Disabled Workmen of Montana. Rep. Turner moved, Rep. Lee seconded that Chairman McKittrick send a letter to the Employment Security Commission asking about this group. Motion carried unanimously. The following action on bills was taken:

SB # 113 -- Rep. Bell moved, seconded by Tierney that an amendment be adopted. Motion carried unanimously. Rep. Lee then moved that the bill be CONCURRED IN AS AMENDED; seconded by Hodges. Motion carried; East opposed.

SB # 115 -- Rep. Lee moved that the Senate amendment be stricken; (seconded by Baeth) and that AS SO AMENDED BE CONCURRED IN. Motion carried; East voted no and Rep. Bell was not in the room. (from this vote on)

SB # 116 -- Rep. Colberg moved it BE CONCURRED IN. Seconded by Kimble; motion carried unanimously.

SB # 117 -- Rep. Colberg moved, seconded by Tierney, that it BE CONCURRED IN. Motion carried unanimously.

SB # 118 -- Rep. Lee moved, seconded by Turner, that it BE CONCURRED IN. Motion carried unanimously.

SB # 119 -- Rep. Baeth moved, seconded by Turner, that it BE CONCURRED IN. Motion carried unanimously.

SB # 120 -- Rep. Lee moved, Turner seconded, that it BE CONCURRED IN. Motion carried unanimously.

SB # 121 -- Rep. Lee moved, Baeth seconded, to amend it. Discussion followed. The motion that it BE CONCURRED IN AS AMENDED was then carried, with East opposed.

SB # 122 -- Rep. Baeth moved that it BE CONCURRED IN; seconded by Lee. Discussion followed. Motion carried, East opposed.

Rep. East was given the option to change the dissenting votes to aye's at a later date. Meeting was adjourned.

Chairman Pat McKittrick

Secretary

Senate BILL NO. 113

INTRODUCED BY Senators Siderius

92-410

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A DEFINITION OF 'EMPLOYER' IN THE WORKMEN'S COMPENSATION ACT, TITLE 92, R.C.M. 1947; AND REPEALING SECTION 92-410, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. There is a new section to be numbered 92-410.1, R.C.M. 1947, which reads as follows:

92-410.1. Employer defined. "Employer" means the state and each county, city and county, city school district, irrigation district, all other districts established by law and all public corporations and quasi-public corporations and public agencies therein and every person, every prime contractor, and every firm, voluntary association and private corporation, including any public service corporation and including an independent contractor who has any person in service under any appointment or contract or hire, expressed or implied, oral or written, and the legal representative of any deceased employer or the receiver or

THIRD READING

trustee thereof.

Any employer who contracts to have work performed of a kind which is a regular or a recurrent part of the work of the trade, business, occupation or profession of such employer shall be liable for the payment of compensation to the employees of any subcontractor unless the subcontractor primarily liable for the payment of such compensation has coverage under this act. Any employers who shall become liable for such compensation may recover the amount of benefits paid and necessary expenses from the subcontractor primarily liable therein.

Section 2. Section 92-410, R.C.M. 1947, is repealed.

-End-

services, and, in addition thereto, their necessary expenses in attending meetings, or when otherwise engaged on district business, including premiums on qualifying bonds and any other bonds required of them in connection with their office, provided such expenses and per diem be approved by a unanimous vote of said board *and a mileage allowance of twelve cents ($.12) per mile in attending board meetings or when engaged in the business of the irrigation district.*

No commissioner or any other officer named in this act shall in any manner be interested directly or indirectly, in any contract awarded or to be awarded by the board, or in the profits derived therefrom; and for any violation of this provision, such officer shall be deemed guilty of a misdemeanor and his conviction thereof shall work forfeiture of his office and he shall be punished by a fine not exceeding five hundred dollars ($500.00), or by imprisonment in the county jail not exceeding six (6) months or by both such fine and imprisonment.

The commissioners of said irrigation district shall each furnish a bond in the penal sum of twenty-five hundred dollars ($2500.00), with corporate surety conditioned for the faithful performance of their duties under this act, and the secretary shall furnish bond, with corporate surety, in the sum of one thousand dollars ($1000.00), conditioned for the faithful performance of his duties pursuant to this act, and for the proper and safekeeping of the records and documents of said district, in all cases where the obligations of said district, either existing or proposed, total two hundred and fifty thousand dollars ($250,000.00) or over. In all other cases the bond for said commissioners shall be in the sum of one thousand dollars ($1000.00)."

Approved: March 6, 1973.

CHAPTER NO. 154

An Act Providing for a Definition of "Employer" and Providing Comprehensive Coverage Extending to Subcontractors in the Workmen's Compensation Act, Title 92, R.C.M. 1947; and Repealing Section 92-410, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is a new section to be numbered 92-410.1, R.C.M. 1947, which reads as follows:

92-410.1. **Employer defined.** "Employer" means the state and

each county, city and county, city school district, irrigation district, all other districts established by law and all public corporations and quasi-public corporations and public agencies therein and every person, every prime contractor, and every firm, voluntary association and private corporation, including any public service corporation and including an independent contractor who has any person in service under any appointment or contract of hire, expressed or implied, oral or written, and the legal representative of any deceased employer or the receiver or trustee thereof.

Any employer who contracts to have work performed of a kind which is a regular or a recurrent part of the work of the trade, business, occupation or profession of such employer shall be liable for the payment of compensation to the employees of any subcontractor unless the subcontractor primarily liable for the payment of such compensation has coverage under this act. Any employers who shall become liable for such compensation may recover the amount of benefits paid and necessary expenses from the subcontractor primarily liable therein.

Section 2. Section 92-410, R.C.M. 1947, is repealed.

Approved: March 6, 1973.

CHAPTER NO. 155

An Act Providing For Compensation For Injuries Producing Partial Disability Under the Workmen's Compensation Act; Repealing Section 92-703, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is to be a new section to be numbered 92-703.1, R.C.M. 1947, which reads as follows:

92-703.1. **Compensation for injuries causing partial disability.** Weekly compensation benefits for injury producing partial disability shall be sixty-six and two-thirds percent (66⅔%) of the difference between the wages received at the time of the injury and the wages that the injured employee is capable of earning thereafter, subject to a maximum compensation of sixty dollars ($60) a week.

The compensation shall be paid during the period of disability, not exceeding however, five hundred (500) weeks in cases of partial disability; provided, however, that compensation for partial disability resulting from the loss of or injury to any member shall